

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper **46**

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

MAILED

ROBERT C. ROSE, WILLIAM BONNEZ
and RICHARD C. REICHMAN,

JAN 23 2002

Junior Party,
(Application 08/207,309)

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

v.

C. RICHARD SCHLEGEL and A. BENNETT JENSON,

Senior Party.
(Application 08/216,506) ✓

Patent Interference 104,772 (McK)

ORDER REDECLARING INTERFERENCE

A. Background

A telephone conference took place on 2 January 2002 at approximately 4:00 p.m. (1600 hours) involving counsel for all parties in Interferences 104,771 through 104,776. During the conference call, the board was advised that all parties agreed that Rose claim 41 (copy attached) should be added to the interference as corresponding to the count.

Rose claim 41 will be added to the interference and designated as corresponding to the count. Since claim 41 depends

from claim 42 and is narrower than any claim mentioned in the count, there is no need to change the scope of the count.

B. Order

Upon consideration of the discussion during the conference call, and for the reasons given, it is

ORDERED that the interference is redeclared to add Rose claim 41 to the interference and Rose claim 41 is designated as corresponding to the count.

FURTHER ORDERED that Count 1 and the claims of the parties are as follows:

Count 1

A composition of matter according to any of claims 42, 43 or 65 of Rose or a method according to any of claims 44, 56 and 71 of Rose,

or

a composition of matter according to any of claims 1, 12, 19 or 64 of Schlegel or a method according to any of claims 50, 53 or 55 of Schlegel.

The claims of the parties are:

Rose: 35-37, 41-45, 48, 50, 52-57, 59,
61-65, 67-72, 75-77, 79-89 and 91

Schlegel: 1-3, 10-19, 21-26, 46-47, and 50-64

The claims of the parties which correspond to Count 1, and therefore are involved in the interference (35 U.S.C. § 135(a)) are:

Rose: 35-37, 41-45, 48, 50, 52-57, 59,
61-65, 67-72, 75-77, 79-89 and 91

Schlegel: 1-3, 10-19, 21-26, 46-47,
and 50-64¹

The claims of the parties which do not correspond to Count 1, and therefore are not involved in the interference, are:

Rose: None

Schlegel: None

mcK

FRED E. McKELVEY
Senior Administrative Patent Judge

23 January 2002
Arlington, VA

¹ In the Form 850 in Interference 103,929, the examiner has indicated that Schlegel claims 10-11, 15, 17-18, 21-22, 26, 51, 54, 61, 63, and 65-66 are otherwise unpatentable.

Please amend claims 8-9, 35, 37, and 41 as follows:

D2
8. A non-infectious papillomavirus virus-like particle or capsomere according to claim [6] 42, wherein said particle or capsomere consists essentially of an HPV-11 L1 capsid protein or an HPV-6 L1 capsid protein [said HPV-11 capsid protein is coded by a sequence consisting essentially of an L1 coding sequence].

9. A non-infectious papillomavirus virus-like particle or capsomere according to claim [8] 42, wherein said L1 capsid protein [coding sequence] is made by [expressed] expressing an L1 coding sequence in a cell using a baculovirus expression system.

D3
35. A non-infectious papillomavirus virus-like particle according to claim [6] 42, wherein said particle has a size equal to the size of HPV-11 or HPV-6 virions.

D4
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FI
37. A non-infectious papillomavirus virus-like particle or capsomere according to claim 8, wherein said particle or capsomere consists of an HPV-11 L1 capsid protein or an HPV-6 L1 capsid protein [said HPV-11 capsid protein is coded by a sequence consisting of an L1 coding sequence].

D5
41. A non-infectious papillomavirus virus-like particle or capsomere according to claim [6] 42, wherein said particle or capsomere induces [the] formation of antibodies in mammals which neutralize infectious HPV-11 virions or HPV-6 L1 virions.

REMARKS

In view of the above amendments and the following remarks, reconsideration of the outstanding office action is respectfully requested.

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